

**U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

PATRICIA KAMMEYER, et al.	:	CASE NO. C-1-01-649
Plaintiffs,	:	(SPEIGEL, J.)
vs.	:	
CITY OF SHARONVILLE, OHIO, et al.	:	<b>MOTION FOR SUBSTITUTION</b>
Defendants.	:	<b>OF COUNSEL FOR DEFENDANTS</b>
	:	<b>JAMES I. CRAMER &amp; WILLIAM NUSS</b>
	:	

Now come Defendants, James I. Cramer and William Nuss, and hereby move the Court for authority to substitute counsel. In support of this Motion, Defendants note the following:

1. The present attorney for these Defendants, Thomas T. Keating, is the Law Director of the City of Sharonville. Further representation of these Defendants by the attorney may potentially involve a conflict of interest because the current Police Chief, Michael Schappa, and the City of Sharonville are both named Defendants.

2. Prior to this time, counsel for these Defendants has filed motions to dismiss concerning the various complaints prepared by Plaintiffs. No discovery has taken place nor has there been any communication which would jeopardize confidential attorney client information. However, at the present time, the Court has denied Defendants' Motion to Dismiss, and it is likely that discovery will proceed.

3. Further, in Hamilton County Common Pleas Case No. A0204042, the Common Pleas Court granted summary judgment motions for the various insurance companies who provided liability and police insurance to the City of Sharonville between 1981 and the present time. Therefore, the City of Sharonville will be financing the legal defense of these Defendants. The possibility exists that, if certain allegations in the Complaint are true, then the City of

Sharonville may deny representation and liability for certain defendants. This possibility necessitates separate and independent counsel for Defendants James I. Cramer and William Nuss.

4. Attorney Randolph H. Freking of Freking & Betz, 219 East Ninth Street, 5<sup>th</sup> Floor, Cincinnati, Ohio 45202 has accepted the responsibility to represent Defendant James I. Cramer hereafter.

5. Attorneys Brian E. Hurley and Robert J. Gehring of Crabbe, Brown & James, LLP, 30 Garfield Place, Suite 940, Cincinnati, Ohio 45202 have accepted the responsibility to represent Defendant William Nuss hereafter.

6. This Motion for Substitution is not made for reasons of delay and will not prejudice Plaintiffs. These two Defendants have been retired from the City of Sharonville for over twelve years and the Complaint focuses on actions which allegedly took place over twenty years ago. Further, Plaintiffs have prepared and filed four different versions of the Complaint during the two years that this matter has been pending.

7. Thomas T. Keating, Law Director of the City of Sharonville, requests to continue involvement with this case as Of Counsel for Defendants Michael Schappa and the City of Sharonville. As Law Director for the City of Sharonville since 1980, he renders legal advice on a regular basis to Police Chief Michael Schappa and to the City of Sharonville.

8. Further, the undersigned requests that the Court schedule a conference with all attorneys to consider the scheduling order as it will be impacted by the new attorney representation.

Respectfully submitted,

KEATING, RITCHIE & SWICK  
A Legal Professional Association

s/ Thomas T. Keating  
Thomas T. Keating, 0011359  
Attorney for Defendants, Cramer and Nuss  
8050 Hosbrook Road, Suite 200  
Cincinnati, Ohio 45236  
Phone: (513) 891-1530  
Fax: (513) 891-1537  
email: tkeating@krslawyers.com

**CERTIFICATE OF SERVICE**

I hereby certify that on January 5, 2004, I electronically filed the foregoing with the Clerk of the Court using the CM/ECFF system which will send notification to the following: Alphonse A. Gerhardstein, Esq., Attorney for Plaintiffs, and Lawrence E. Barbire, Esq., Attorney for Defendants, City of Sharonville, Ohio and Mike Schappa.

s/ Thomas T. Keating  
Thomas T. Keating